

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

State of Oklahoma, et al.,)	
)	
Plaintiffs,)	Civil No. 05-CV-0329 GKF-SAJ
)	
v.)	
)	
Tyson Foods, Inc., et al.,)	
)	
Defendants.)	
)	

THE CARGILL DEFENDANTS' OBJECTION
TO PLAINTIFFS' REQUEST TO ADD MOTIONS FOR SANCTIONS TO
JANUARY 30, 2008 HEARING AGENDA

Defendants Cargill, Inc. and Cargill Turkey Production, LLC ("the Cargill Defendants") offer the following objection to Plaintiffs' Request that its Motion for Sanctions Against the Cargill Defendants [Dkt 1469] Be Added to the January 30, 2008 Hearing Agenda [Dkt 1485]:

1. On Friday, January 25, after the close of business, Plaintiffs served and filed their Motion for Sanctions against the Cargill Defendants [Dkt. 1469].
2. On Monday, January 28, 2008, the Cargill Defendants filed their Motion to Strike Plaintiffs' Motion for Sanctions [Dkt 1474], pointing out that the Court had already resolved the issue of 30(b)(6) depositions in its January 16, 2008 Minute Order and noting that both the timing and the substance of Plaintiffs' motion appeared to be intended more to distract the Cargill Defendants from the coming PI hearing than to obtain any urgently needed information.

3. On Monday, January 28, 2008, again after the close of business, Plaintiffs filed their request [Dkt 1485] asking that the Court consider a portion of their motion for sanctions at the already scheduled January 30, 2008 conference with the Court.

4. Contrary to Plaintiffs' assertion in their request (see Dkt 1485 ¶ 4, the Cargill Defendants have not in their Motion to Strike "essentially responded" to the substance of Plaintiffs' motion for sanctions; on the contrary, the Motion to Strike merely pointed out the most glaring procedural flaw in Plaintiffs' motion. The Motion to Strike itself notes that Plaintiffs' motion misstates the facts, suffers from numerous other procedural and substantive infirmities, and gives an incomplete summary list of examples. Dkt. 1474 at 3 & n.1. The Motion to Strike does not and was not intended to address the substance of Plaintiffs' Motion for Sanctions. Indeed, given the timing of Plaintiffs' service and the number of problems with the motion, the Cargill Defendants would hardly have had time to develop a full or even a reasonable response between Friday night and Monday morning. The Cargill Defendants' Motion to Strike itself notes this, *id.*, and expressly asks the Court for a reasonable time to respond to Plaintiffs' motion should the Court deny the motion to strike.

5. Neither Plaintiffs' original motion [Dkt 1469] nor Plaintiffs' current request [Dkt 1485] identifies a single specific issue or fact as to which Plaintiffs need immediate discovery through a 30(b)(6) deposition of the Cargill Defendants. Neither the motion nor the response offers any explanation of why Plaintiffs have not obtained such evidence, through deposition or otherwise, in the months since the Cargill Defendants first offered a company representative for deposition in August 2007.

6. For these reasons, the Cargill Defendants oppose Plaintiffs' request to add their motion for sanctions to the January 30, 2008 hearing agenda. A hearing on Plaintiffs' motion should not be scheduled until after the Court has determined whether Plaintiffs' motion is even proper given the Court's January 16, 2008 Minute Order and, if necessary, until after the Cargill Defendants have had a fair opportunity to respond to the substance of the motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 29th day of January, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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